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CENTRAL FAX CENTER**Nixon & Vanderhye PC.**  
ATTORNEYS AT LAW**FEB 03 2006**11TH FLOOR  
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WRITER'S DIRECT DIAL NUMBER:  
**(703) 816-4005*****FACSIMILE COVER SHEET***  
**PLEASE DELIVER IMMEDIATELY!!!!**Our Ref.: 1331-138  
Your Ref.: 08/460,186 Date: February 3, 2006To: Examiner Khare  
Firm: USPTO  
Facsimile No.: 571-273-8300  
From: Len MitchardNumber of Pages (including cover sheet): 4  
(IF YOU DO NOT RECEIVE ALL OF THE PAGES OR ENCOUNTER DIFFICULTIES IN TRANSMISSION,  
PLEASE CONTACT US IMMEDIATELY AT (703-816-4000).lcm  
FACSIMILE OPERATOR

ATTACHMENT/S: Response to Advisory Action

MESSAGE:**CONFIDENTIALITY NOTE**

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In re Patent Application of

Atty Dkt. 1331-138

C# M#

von BORSTEL et al.

TC/A.U. 1623

Serial No. 08/460,186

Examiner: Owens, H.

Filed: June 2, 1996

Date: February 3, 2006

Title: TREATMENT OF CHEMOTHERAPEUTIC AGENT AND ANTIVIRAL AGENT  
 TOXICITY WITH ACYLATED PYRIMIDINE NUCLEOSIDES

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FEB 03 2006

Commissioner for Patents  
 P.O. Box 1450  
 Alexandria, VA 22313-1450

Sir:

**RESPONSE/AMENDMENT/LETTER**

This is a response/amendment/letter in the above-identified application and includes an attachment which is hereby incorporated by reference and the signature below serves as the signature to the attachment in the absence of any other signature thereon.

☐ **Correspondence Address Indication Form Attached.**

**Fees are attached as calculated below:**

Total effective claims after amendment	25	minus highest number		
previously paid for	25	(at least 20) =	0 x \$50.00	\$0.00 (1202)/\$0.00 (2202) \$ 0.00

Independent claims after amendment	1	minus highest number		
previously paid for	3	(at least 3) =	0 x \$200.00	\$0.00 (1201)/\$0.00 (2201) \$ 0.00

If proper multiple dependent claims now added for first time, (ignore improper); add  
 \$360.00 (1203)/\$180.00 (2203) \$ 0.00

Petition is hereby made to extend the current due date so as to cover the filing date of this  
 paper and attachment(s)  
 One Month Extension \$120.00 (1251)/\$60.00 (2251)  
 Two Month Extensions \$450.00 (1252)/\$225.00 (2252)  
 Three Month Extensions \$1020.00 (1253)/\$510.00 (2253)  
 Four Month Extensions \$1590.00 (1254)/\$795.00 (2254)  
 Five Month Extensions \$2160.00 (1255)/\$1080.00 (2255) \$ 0.00

Terminal disclaimer enclosed, add  
 \$130.00 (1814)/\$65.00 (2814) \$ 0.00

☐ Applicant claims "small entity" status. ☐ Statement filed herewith

Rule 56 Information Disclosure Statement Filing Fee \$180.00 (1806) \$ 0.00

Assignment Recording Fee \$40.00 (8021) \$ 0.00

Other: \$ 0.00

**TOTAL FEE ENCLOSED \$ 0.00**

The Commissioner is hereby authorized to charge any deficiency, or credit any overpayment, in the fee(s) filed, or asserted to be filed, or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Account No. 14-1140. A duplicate copy of this sheet is attached.

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 Arlington, Virginia 22203-1808  
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 LCM:lrm

NIXON & VANDERHYE P.C.  
 By Atty: Leonard C. Mitchard, Reg. No. 29,009

Signature: \_\_\_\_\_

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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Patent Application of

von BORSTEL et al.

Atty. Ref.: 1331-138; Confirmation No. 5103

Appl. No. 08/460,186

TC/A.U. 1623

Filed: June 2, 1995

Examiner: Khare, Devesh

For: TREATMENT OF CHEMOTHERAPEUTIC AGENT AND ANTIVIRAL AGENT  
TOXICITY WITH ACYLATED PYRIMIDINE NUCLEOSIDES

\* \* \* \* \*

February 3, 2006

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

**RESPONSE TO ADVISORY ACTION**

In response to the Advisory Action mailed January 12, 2006, withdrawal of the Advisory Action and issuance of an Action on the merits is respectfully requested. The following reasoning is presented.

At the outset, the undersigned wishes to acknowledge a telephone interview conducted with the Examiner (Mr. Khare). The interview was conducted on February 1, 2006, and the courtesies extended by the Examiner were most appreciated. The purpose of the interview was to explain why it is believed that an action on the merits should issue in this case.

A Final Rejection was mailed in this case on February 23, 2004. A response was timely filed on July 23, 2004, and a Notice of Appeal was timely filed on August 23, 2004, together with the requisite extension requests. An Information Disclosure

von BORSTEL et al.  
Appl. No. 08/460,186  
February 3, 2006

Statement was submitted on December 21, 2004. A first Advisory Action was mailed on February 4, 2005 indicating that the Response dated July 23, 2004 did not place the application in condition for allowance.

Applicants filed a Response on February 23, 2005 together with an Information Disclosure Statement and a Second Submission under Rule 129(a). The requisite Rule 129(a) fee (\$790.00) and the extension fee (\$1,590.00) accompanied the Response.

A second Advisory Action was mailed on January 12, 2006. Upon discussing this with the Examiner (Mr. Khare) during the telephone conference on February 1, 2006, the Examiner indicated that he was not aware of the Rule 129(a) filing on February 23, 2005. The undersigned advised the Examiner that under the provisions of Rule 129(a) (applicable to cases such as the present application filed prior to June 8, 1995), the filing of a Rule 129(a) submission results in the withdrawal of the finality and entry of the response and Information Disclosure Statement.

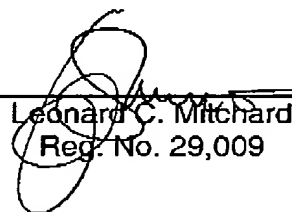
It is believed therefore that an Action on the merits should issue in this case. Such action is respectfully requested.

Favorable action on this application is awaited.

Respectfully submitted,

**NIXON & VANDERHYE P.C.**

By: \_\_\_\_\_

  
Leonard C. Mitchard  
Reg. No. 29,009

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